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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-453

12 **LAURA ANNE BERNACKI**
13 **AKA LAURA BERNACKI**
14 **1300 Adams Avenue, #36D**
Costa Mesa, CA 92626

A C C U S A T I O N

15 **Registered Nurse License No. 627165**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about September 29, 2003, the Board of Registered Nursing issued Registered
24 Nurse License Number 627165 to Laura Anne Bernacki, aka Laura Bernacki (Respondent). The
25 Registered Nurse License was in full force and effect at all times relevant to the charges brought
26 herein and expired on January 31, 2005.

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4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

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(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Disciplinary Action by Michigan Board of Nursing)

8. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4) on the grounds of unprofessional conduct in that Respondent was disciplined by the State of Michigan Board of Nursing (Michigan Board) for violation of Michigan Public Health Code sections 16221(a) (conduct, practice or condition that impairs, or may impair, the ability to safely and skillfully practice the health profession), 16221(b)(ii) (conduct that evidences substance abuse), 16221(b)(iii) (conduct that evidences a mental or physical inability reasonably related to and adversely affecting Respondent's ability to practice in a safe and competent manner), and 16221(c)(iv) (conduct which evidences a mental or physical inability reasonably related to and adversely affecting ability to practice in a safe and competent manner). The circumstances are as follows:

9. On or about February 1, 2008, Respondent began employment as an agency nurse with Maxim Staffing Solutions in Bingham Farms, Michigan. From August 16, 2008 through September 5, 2008, while assigned to Harper University Hospital in Detroit, Michigan, Respondent withdrew from the Pyxis (Pyxis) automated dispensing unit excessive amounts of hydromorphone for five patients, of which one patient did not have a physician's order. Respondent failed to document the administration and wastage of the medication in the patients' charts.

10. From August 29, 2008 through September 13, 2008, while assigned to Detroit Receiving Hospital in Detroit, Michigan, Respondent withdrew from Pyxis excessive amounts of morphine for seven patients, of which five patients did not have a physician's order for the medication. Respondent failed to document the administration and wastage of the medication in the patients' charts.

11. On September 23, 2008, Respondent admitted to administrators at Harper University Hospital and Detroit Receiving Hospital that she diverted narcotics for personal use to alleviate her pain and further admitted that she required 30mg of morphine or 6mg of Dilaudid daily to satisfy her addiction to the narcotics, which she injected into her arms and legs. Respondent was

1 referred to an Employee Assistance Program that referred Respondent to the Michigan Board's
2 Health Professional Recovery Program (HPRP) for her drug dependency. Respondent completed
3 intake assessment with HPRP and disclosed that she had been abusing Percocet and Norco for the
4 past seven years and had diverted narcotics for personal use. The HPRP requested that
5 Respondent undergo an evaluation.

6 12. On September 25, 2008, Respondent entered into a five-day detoxification program
7 followed by an intensive outpatient (IOP) treatment program.

8 13. On October 6, 2008, Respondent underwent an evaluation as directed by the HPRP.
9 The evaluator diagnosed Respondent with opiod dependency and recommended entry into an
10 HPRP monitoring agreement. Respondent was deemed safe to practice with a six-month narcotic
11 access restriction and a maximum 40-hour work week.

12 14. On October 6, 2008, pursuant to Michigan Public Health Code section 20175(5),
13 Maxim Staffing Solutions notified the Michigan Board of Nursing of Respondent's termination
14 for the admitted diversion of hydromorphone and morphine while assigned to Harper University
15 Hospital and Detroit Receiving Hospital.

16 15. On November 7, 2008, Respondent entered into a three-year, non-disciplinary
17 substance abuse HPRP monitoring agreement with the Michigan Board of Nursing. The terms of
18 the monitoring agreement required, in part, that Respondent: a) abstain from alcohol and all
19 mood-altering substances; b) attend weekly 12-step and Caduceus meetings; c) submit to random
20 urine drug screens; d) take only approved medications; 3) participate in weekly group therapy;
21 and f) submit monthly self-reports and quarterly therapist reports to the HPRP.

22 16. On October 1, 2009, December 29, 2009, and April 29, 2010, the HPRP notified
23 Respondent that she was not in compliance with the terms of her monitoring agreement and each
24 time directed Respondent to submit missing documents, which she failed to do. On May 19,
25 2010, the HPRP notified Respondent that her file had been closed based on her non-compliance
26 and gave her until June 2, 2010, to complete and return the necessary paperwork for a Step-1

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1 review. Respondent appealed the Step-1 review and the HPRP denied her appeal on June 9,
2 2010, for failure to submit requested documents. Respondent's file was forwarded to the
3 Complainant, the Bureau of Health Professions, Michigan Board of Nursing, for disposition.

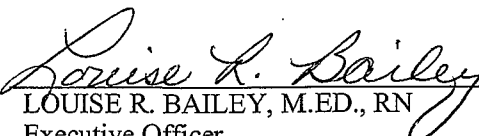
4 17. On September 7, 2010, the Michigan Board served Respondent with an
5 Administrative Complaint and notified Respondent that pursuant to section 16231(7) of the
6 Public Health Code, Respondent had 30 days from the date of receipt of the complaint to submit a
7 written response to the allegations contained in the Administrative Complaint. Respondent failed
8 to submit a written response to the Complainant within 30 days of receipt and her Michigan
9 nursing license No. 47-04-250654 was suspended on December 30, 2010. Respondent's
10 Michigan nursing license expired on March 31, 2010.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Revoking or suspending Registered Nurse License Number 627165 issued to Laura
15 Anne Bernacki, aka Laura Bernacki;
- 16 2. Ordering Laura Ann Bernacki, aka Laura Bernacki, to pay the Board of Registered
17 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
18 Business and Professions Code section 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

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22 DATED: December 5, 2012


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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